

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
Martinsburg Division**

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<b>UNITED STATES OF AMERICA</b>	:	
	:	
<b>vs.</b>	:	<b>Crim. No. 3:20-CR-46</b>
	:	
<b>MONROE MERRELL,</b>	:	<b>Chief Judge Gina M. Groh</b>
	:	
<b>Defendant.</b>	:	
	:	

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**MOTION TO MODIFY ORDER**

Mr. Monroe Merrell, by and through undersigned counsel, moves this Court to modify the Court's previous Order Granting Defendant Merrell's Motion to Modify the Court's Protective Order (Doc. 144) (May 19, 2021). In making this Motion, Mr. Merrell relies upon his rights to due process, to a fair trial, to present a defense, to confront the evidence against him, to the effective assistance of counsel, to investigate and present both exculpatory and mitigating evidence, to be free from cruel and unusual punishment, and other rights protected by the Fifth, Sixth, and Eighth Amendments to the United States Constitution.

Undersigned counsel has consulted with the government, which agrees to the relief requested herein.

In support of this Motion, Mr. Merrell states as follows:

1. On April 15, 2021, Mr. Merrell filed a Motion to Modify Protective Order (Doc. 127), which asked this Court to modify the existing protective order to allow the placement and use of a locked down, sanitized discovery laptop at the jail.
2. On May 19, 2021, this Court entered an Order Granting Defendant Merrell's Motion to Modify the Court's Protective Order (Doc. 144).

3. At the time of Mr. Merrell's Motion and the Court's Order, Mr. Merrell was housed at Tygart Valley Regional Jail.
4. At the request of the defense, Mr. Merrell is being moved to Potomac Highlands Regional Jail ("PHRJ").
5. The Court's Order should be modified to reflect Mr. Merrell's current placement.

### **ARGUMENT**

Pursuant to this Court's Order, undersigned counsel obtained a sanitized, locked down laptop for Mr. Merrell's use reviewing discovery. This laptop was inspected by the United States, which agreed that the laptop had been prepared in compliance with the Court's Order. *See* Joint Notice to Court (Doc. 148). The laptop was then delivered to TVRJ, where Mr. Merrell was housed at the time. Mr. Merrell is now in the process, however, of being moved to PHRJ. Because the Court's Order refers specifically to TVRJ, not PHRJ, it requires several modifications.

Specifically, the Court's Order expressly refers to TVRJ in the following places:

- ¶ 5 states that "counsel for the Defendant shall provide the sanitized laptop to the Warden at Tygart Valley Regional Jail ('TVRJ')."
- ¶ 6 provides for the jail's handling of the laptop and states that "[t]he Court notes that this is a serious case containing voluminous discovery and thanks the warden and staff at TVRJ for their assistance in ensuring the Defendant's Constitutional rights are respected."
- ¶ 7 provides that "[o]nce defense counsel provides the laptop to the warden at TVRJ, the password should be kept secure and known only to the Defendant and members of the defense team who are permitted access to discovery materials."

- The unnumbered concluding paragraph directs the Clerk of Court to send a copy of the Order “to the warden at Tygart Valley Regional Jail.”

To ensure that all parties are in compliance with the Court’s Order, Mr. Merrell requests that the aforementioned references be changed to “Potomac Highlands Regional Jail.” This will allow the laptop to be transported to PHRJ and ensure that the restrictions placed upon the laptop are also followed at PHRJ. Mr. Merrell has attached a Proposed Order that makes the necessary changes.

### **CONCLUSION**

For all the reasons set forth above, Mr. Merrell respectfully moves this Court to modify the Court’s previous Order Granting Defendant Merrell’s Motion to Modify the Court’s Protective Order (Doc. 144) so that it applies to Potomac Highlands Regional Jail.

**MONROE MERRELL**

By Counsel

s/ Douglas Sughrue

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***Counsel for Monroe Merrell***

**CERTIFICATE OF SERVICE**

I, Douglas Sughrue, Esq., hereby certify that on September 27, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record. A Notice of Electronic Filing will be served on:

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s/ Douglas Sughrue